

STANDARD APPLICATION
Harford County
Board of Appeals
Bel Air, Maryland 21014

JUL 25 2007

Case No. 5600
Date Filed 5/10/07
Hearing Date _____
Receipt _____
Fee \$ 1050

Shaded Areas for Office Use Only

Type of Application

- ☐ Administrative Decision/Interpretation
☒ Special Exception
☐ Use Variance
☐ Change/Extension of Non-Conforming Use
☐ Minor Area Variance
☐ Area Variance
☐ Variance from Requirements of the Code
☐ Zoning Map/Drafting Correction

Nature of Request and Section(s) of Code _____

CASE 5600 MAP 50 TYPE Special Exception

ELECTION DISTRICT 03 LOCATION 704 Schucks Road, Bel Air 21015

BY Sydney and Kelly Peverley

Appealed because a special exception pursuant to Sec. 267-53.4C, 267-53.5 and 267-53.6 of the Harford County Code to allow a communications tower in the AG District requires approval by the Board.

NOTE: A pre-conference is required for property within the NRD/Critical Area or requests for an Integrated Community Shopping Center, a Planned Residential Development, mobile home park and Special Exceptions.

Applicant/Owner (please print or type)

Name Sydney D III & Kelly C Peverley Phone Number 410-836-2385

Address 704 Schucks Road Bel Air MD 21015-4922
Street Number Street City State Zip Code

Co-Applicant T-Mobile Northeast LLC, Katie Oppenheimer (Agent for Applicant) Phone Number 203-240-5906

Address 12050 Baltimore Avenue Beltsville MD 20705
Street Number Street City State Zip Code

Contract Purchaser _____ Phone Number _____

Address _____
Street Number Street City State Zip Code

Attorney/Representative Karl Nelson Phone Number 410-332-8663

Address Lockwood Place 500 East Pratt Street, Suite 900 Baltimore MD 21202-3171
Street Number Street City State Zip Code

Land Description

Address and Location of Property 704 Schucks Road, Bel Air, MD 21015, South of Schucks Corner

Subdivision N/A

Lot Number N/A

Acreage/Lot Size 73.3

Election District 3-20

Zoning AG

Tax Map No. ~~370028~~ 50

Grid No. 1A

Parcel 279

Water/Sewer: Private ☒

Public ☐

List ALL structures on property and current use: Existing store, two (2) existing residences, two (2) existing green houses, existing gravel access drive, existing gravel parking area, existing barn, existing utility Pole (BG&E #245120), existing corn field; Current use is: Boxwood Farms. Nursery & Landscaping.

Estimated time required to present case: _____

If this Appeal is in reference to a Building Permit, state number No

Would approval of this petition violate the covenants and restrictions for your property? No

Is this property located within the County's Chesapeake Bay Critical Area? Yes ☐ No ☒

If so, what is the Critical Area Land Use designations: _____

Is this request the result of a zoning enforcement investigation? Yes ☐ No ☒

Is this request within one (1) mile of any incorporated town limits? Yes ☐ No ☒

Request

The applicant requests to install a wireless telecommunications facility to include mounting nine (9) panel antennas to a proposed 120-foot silo. The antennas will be located inside a concealment & will not be visible. Three (3) equipment cabinets will be located at the base of the proposed silo on a 10-foot by 20-foot concrete pad in a board-on-board fenced compound with proposed evergreen trees around the perimeter for additional screening. Access to the proposed site will utilize an existing driveway per agreement with the land owner (Sec. 267-53.4; 267-53.5; 267-53.6; 267-34; 267-52).

Justification

Please see attached Statement of Justification

If additional space is needed, attach sheet to application. In answering the above questions, please refer to the Requirements that pertain to the type of approval request. (Special Exception, Variance, Critical Area or Natural Resource District (NRD) Variance, etc.)

BEFORE THE ZONING ADMINISTRATOR
OF HARFORD COUNTY, MARYLAND

In the Matter of the Petition of T-Mobile :
Northeast LLC, a subsidiary of T-Mobile, :
USA for Special Exception Approval to :
Install a Wireless Telecommunications : Case No. _____
Facility at 704 Schucks Road, Bel Air, :
Maryland 21015 :

STATEMENT

In accordance with the requirements of the Harford County Zoning Code, T-Mobile Northeast LLC, a subsidiary of T-Mobile, USA ("T-Mobile" or "Applicant") hereby furnishes the following Statement in support of the request that a special exception be granted permitting the installation of an unmanned wireless telecommunication facility (the "Facility") to be located at 704 Schucks Road, Bel Air, Harford County, Maryland (the "Property").

APPLICANT

T-Mobile holds a license issued to it by the Federal Communications Commission ("FCC") to provide personal communication service ("PCS") throughout the greater Baltimore-Washington, DC metropolitan areas, including all portions and sections of Harford County. T-Mobile now seeks approval of this special exception application to construct and operate the proposed unmanned wireless telecommunications facility in accordance with the terms, obligations and responsibilities of said license.

NATURE OF THE REQUEST

The Applicant requests special exception approval to permit the establishment of an unmanned wireless telecommunications facility in an AG zone. The Facility will primarily consist of nine (9) antennas mounted inside a proposed 120-foot silo to be located at Randallstown 704 Schucks Road, Bel Air, Maryland 21015. The nine (9) antennas will be located at an antenna centerline ("RAD Center") of 115-feet. In addition to the nine (9) antennas, T-mobile will install three (3) proposed ancillary equipment cabinets on a 10-foot by 20-foot concrete pad within a proposed 40-foot by 60-foot board-on-board fenced area at the around the base of the proposed silo, as shown on T-Mobile's zoning drawings ("ZD's") prepared by Betzwood Associates PC ("Betzwood") and dated July 11, 2006 (Attachment A). The proposed fenced compound will be further screened by proposed evergreen trees around the perimeter. This facility is sought to address pressing coverage issues along Schucks Road, RT-155 (E Churchville Road), and RT-543 (S. Fountain Green Road) as well as address gaps in wireless coverage in the surrounding residential area.

Coaxial cables will connect the equipment cabinets to the antennas. Copies of specification sheets for the antennas have been offered into evidence (Attachment B) as well as drawings depicting the equipment platform and proposed screening (Attachment A). The antennas will be attached inside the proposed silo at a RAD Center of 115-feet. The 63 ½-inch

by 51 1/5-inch by 37-inch (height by width by depth) ancillary equipment cabinets will be placed within the above-referenced fenced area.

The facility will operate automatically and will not require personnel or hours of attendance. It will operate twenty-four (24) hours a day, three hundred and sixty-five days a year. Maintenance personnel will visit the site periodically and occasionally for repairs or modifications to the facility.

REASON FOR REQUEST

The proposed Facility is a vital component of T-Mobile's area-wide wireless telecommunications network. Telecommunications carriers must locate antenna sites according to a network design within relatively limited geographic parameters in order to provide uninterrupted coverage. When carriers cannot locate a site within these geographic parameters, network users will pass through an area where the lost signal results in interrupted or "dropped" calls. This poses a significant safety problem, both from the standpoint of lack of coverage in emergencies and because an interrupted call may mean a dangerous distraction to drivers.

In addition, the number of emergency 911 calls from wireless phones is increasing rapidly. Because of this, a new caller location system, called Enhanced 911 (E911), has been deployed. E911 serves three functions: 1) ensures that a wireless 911 call is routed to the nearest emergency dispatch call center; 2) provides emergency dispatchers with the call-back number of the distressed call; and 3) provides the approximate location of the distressed caller. For E911 to perform its many invaluable functions, wireless providers must have enough antennas placed throughout communities to ensure a distressed caller's wireless phone has adequate signal available to make an emergency call, stay connected with the 911 operator, and be located by emergency services.

In its evaluation of the need for service in the area and in completing an examination of possible site locations, T-Mobile has selected the Property as an appropriate location for its Facility. T-Mobile proposes to install a 120-foot silo in an AG zone that will house the nine (9) proposed antennas internally. This site location and design will be consistent with the agricultural nature of the subject parcel and create a practical structure that will allow for co-location while minimizing its visual impact to adjacent property owners.

The property located at 704 Schucks Road is zoned AG (Agricultural). Telecommunications facilities are permitted by special exception in AG zones up to 199-feet under Section 267-53.4(C).

This site offers both an excellent land-use and visual solution to T-Mobile's coverage objective within the narrow placement parameters of this particular search area. T-Mobile's analysis of its network indicates that there is a significant gap in wireless coverage along Schucks Road, RT-155 (E Churchville Road), and RT-543 (S. Fountain Green Road) as well as in the surrounding residential area.

OPERATION OF THE FACILITY

The Facility will be in continuous operation 24 hours per day. It will cause no objectionable noise, vibrations, fumes, odors, dust, illumination, glare or physical activity at the Property. There will be no lighting of the Facility. The Facility will be unmanned and will not create any significant impact on traffic to the surrounding area. After the initial construction of the Facility, the only visits to the site will be for emergency repairs or regularly scheduled maintenance visits of 1-2 times per month. The Facility will not require any water or sewer service; electric and telephone service is already on site. There will be no special requirements for other public facilities or services.

ANTICIPATED IMPACTS ON ADJOINING PROPERTIES

The proposed facility will have no impact as to traffic, noise, light pollution, air quality, water quality, or radiation on the adjoining properties. There will be no harmful emissions or any electrical or blanketing interference from the equipment, transmission lines or antennas.

As stated previously, the nine (9) proposed antennas will be attached internally within the proposed 120-foot silo. This site location and design will be consistent with the agricultural nature of the subject parcel and create a practical structure that will allow for co-location while minimizing its visual impact to adjacent property owners.

ALTERNATIVE SITES CONSIDERED FOR THIS PROPOSAL

T-Mobile investigated the possibility of using the following properties in the vicinity of the proposed site for a co-location installation. Each was rejected, as detailed below.

- *Existing Silo, 1616 S. Fountain Green Road, Bel Air, MD 21015*
 - T-Mobile already has an on-air co-location on an existing 80-foot silo at this site (BAN221B).
- *Existing Silo, 2000/02 Calvary Road, Bel Air, MD 21015*
 - Per T-Mobile's Radio Frequency engineer, the existing ±80-foot silo at this location is too close to an existing on-air silo co-location (BAN221B) and too far away to address pressing coverage issues along Schucks Road, RT-155 (E Churchville Road), and RT-543 (S. Fountain Green Road) as well as address gaps in wireless coverage in the surrounding residential area.
- *Existing Silo, 2015 Calvary Road, Bel Air, MD 21015*
 - Per T-Mobile's Radio Frequency engineer, the existing ±60-foot silo at this location is too close to an existing on-air silo co-location (BAN221B) and too far away to address pressing coverage issues along Schucks Road, RT-155 (E Churchville Road), and RT-543 (S. Fountain Green Road) as well as address gaps in wireless coverage in the surrounding residential area.
- *Existing Water Tank, 523 S. Fountain Green Road, Bel Air, MD 21015*
 - Tom Patti of Harford County, stated that the existing ±120-foot Fountain Green Water Tank will be removed from the site and moved to a new location at a future date. The planned relocation date is unknown at this time. Please see the attached e-mail from Tom Patti (Attachment O).

PROVISIONS APPLICABLE TO ALL COMMUNICATIONS TOWERS, SECTION 267-53.5

- A. All communications towers shall be structurally designed to accommodate for co-location, which shall mean the ability to allow for the placement of antennas for 3 or more carriers. This provision may be waived by the approving body if it is determined that a co-location design will have an adverse impact on the surrounding area.

The proposed silo will be structurally designed to accommodate for co-location of 3 or more total carriers (Attachments A & G).

- B. No aviation-related lighting shall be placed upon any communications tower unless specifically required by the Federal Aviation Administration or other governmental entity.

The FAA does not require lighting or further analysis at the proposed location and height (Attachment C). No aviation-related lighting shall be placed on the proposed communications silo.

- C. Monopoles shall be preferred communications tower structure type within the County.

Although the monopole is the preferred communications tower structure type, T-Mobile believes that a silo with internal antennas will be consistent with the agricultural nature of the subject parcel and create a practical structure that will allow for co-location while minimizing its visual impact to adjacent property owners.

- D. To the extent practicable, communication towers shall have suitable landscaping in order to screen the site from adjoining properties.

The proposed silo and ground equipment will be screened by a proposed board-on-board fenced compound, as well as proposed evergreen greens around the compound's perimeter.

- E. The only signage permitted on any communications tower shall be a single sign no larger than 6 square feet, affixed to the equipment building or fence enclosure that identifies the tower owner, each locating provider and the telephone number for the person to contact in the event of an emergency.

The only signage proposed at the site will be a single sign no larger than 6 square feet, affixed to the fenced compound identifying T-Mobile as the owner. No additional signs are required or proposed.

- F. Upon completion of a communications tower and every 5 years after the date of completion, the owner of the tower shall submit to the Zoning Administrator written certification from a professional engineer verifying that the tower meets all applicable building code and safety requirements applicable at the time the original building permit was issued. Failure to submit said certification within 60 days of written notification by the Department of Planning and Zoning to the owner of the tower or any successor in interest shall result in the start of the revocation process for the tower approval.

T-Mobile agrees to submit written certification from a professional engineer every 5 years after the date of completion that the tower meets all applicable building code and safety requirements applicable at the time the building permit was issued.

G. All zoning certificate applications for the construction of new communications towers shall be subject to the DAC review process, with the following additional requisites:

- (1) Whether an applicant has satisfied the radio frequency need requirements identified in this section shall be reviewed by a radio frequency engineer. The engineer shall be retained by the County from an approved panel of such engineers to be created and maintained by the County. The engineer shall determine whether the applicant has shown a radio frequency need, based on coverage and/or capacity issues, or other engineering requisites, to construct a new communications tower;

At the time of filing the Zoning Certificate application, T-mobile will provide detailed information concerning radio frequency need to construct a new communications facility at the proposed location to the DAC.

- (2) When the communications tower is permitted by right, the engineer's determination shall be made in the ordinary course of DAC review;

Not applicable. Telecommunications facilities are permitted by special exception in AG zones up to 199-feet under Section 267-53.4(C).

- (3) When the communications tower is allowed by special exception, the County's radio frequency engineering review shall be made in connection with the staff report review pursuant to Chapter A274-1.D. Such review will be completed prior to any zoning hearing and will preclude further DAC review of radio frequency issues; and

T-Mobile understands that the County's radio frequency engineering review shall be made in connection with the staff report review pursuant to Chapter A274-1D and shall be completed prior to any zoning hearing.

- (4) The County's radio frequency engineer shall ensure that any new tower does not interfere with or obstruct existing or proposed communications towers designed for public safety use.

At the time of filing the Zoning Certificate application, T-mobile's radio frequency engineer will ensure that the new communications facility proposed will not interfere with or obstruct existing or proposed communications towers designed for public safety use (Attachment D).

H. The applicant shall be responsible for maintaining the communications tower in a safe condition.

T-Mobile ensures it will maintain the communications tower in a safe condition.

- I. Communications towers shall be utilized continuously for wireless communications. In the event that a communications tower ceases to be used for wireless communications for a period of 6 months, the approval will be revoked. In the event that the Zoning Administrator is presented with evidence that further viability of the tower is imminent, the Zoning Administrator may grant one extension of the approval for a period not to exceed 6 months beyond the revocation of the use. The applicant shall take all necessary steps to dismantle the tower and remove and dispose of all visible remnants and materials from the subject parcel within 90 days after termination. The applicant shall ensure removal of the tower and all associated accessory structures by posting an acceptable monetary guarantee with the County on forms provided by the Office of the Zoning Administrator. The guarantee shall be submitted prior to the issuance of a building permit and shall be for an amount equal to a cost estimate approved by the Zoning Administrator for the removal of the tower, plus a 15% contingency.

If the proposed communications facility will not be utilized continuously for wireless communications for a period of 6 months, T-mobile ensures the removal of the silo and all associated accessory structures.

- J. Every application for the construction of a new communications tower shall include the following:

- (1) Information demonstrating the applicant's radio frequency need for the facility, including computer modeling information, an explanation as to why co-location is not feasible and a list of alternative sites considered;

Please see the attached propagation maps (Attachment E). The explanation as to why co-location is not feasible and a list of alternative sites considered is detailed under the "Alternative Sites Considered For This Proposal" section above.

- (2) A checklist prepared in conformity with Section 106 of the National Environmental Policy Act and any other documents filed by the applicant with the FCC related to this site if requested by the department;

The Section 106 of the National Environmental Policy Act checklist is in the process of being completed and will be completed by the time of public hearing for this application. To accompany the application at this time a Phase I Archaeological Survey of the proposed telecommunications facility and a Phase I Environmental Survey have been submitted. Both surveys concluded that construction of the proposed compound would not directly impact any archaeological sites or create environmental concerns (Attachment F).

- (3) A site plan, including the layout of the site, a drawing or other physical depiction of the proposed communications tower and any equipment buildings, and a map showing the area within a one mile radius of the tower;

Please see the attached site plan (Attachment A).

- (4) A description of the number of carriers' equipment that the tower can accommodate and a statement as to whether the applicant will allow others to co-locate on the facility;

T-mobile will allow a minimum of two (2) additional carriers to co-locate on the proposed facility. The proposed telecommunications silo will house T-Mobile antennas at an antenna centerline of 115-feet. The remaining antenna centerlines will be made available for co-location to additional carriers. The proposed 40-foot by 60-foot fenced compound will enclose the base of the proposed telecommunications and T-Mobile's proposed equipment pad (10-foot by 20-foot). The remaining unoccupied square footage in the proposed fenced compound will be made available for other carriers' ground equipment (Attachment G).

- (5) Documentation demonstrating the tower shall be designed and constructed in accordance with any applicable American National Standards Institute standards;

The proposed telecommunications facility will be constructed in accordance with any applicable American National Standards Institute standards (Sheet S-1 of Attachment A).

- (6) Proof that the applicant owns or otherwise has permission to use the site, along with any easements necessary to access the site;

Please see the attached lease agreement signed by both T-Mobile and the property owner (Attachment H).

- (7) A certification from each carrier that will utilize the facility that is equipment will meet all applicable federal standards governing the emission of energy from such facilities; and

See the attached "Whether a Facility is Categorically Excluded" form certifying that T-Mobile's equipment will meet all applicable federal standards governing the emission of energy from such facilities (Attachment D).

- (8) A nonbonding 5-year plan showing the applicant's existing and proposed communications network within the County. In accordance with state law on access to public records, § 10-611 et seq. of the State Government Article, the department shall treat the 5-year plan it obtains as confidential and shall not permit public inspection of that information.

Please see the attached 5-year plan showing T-Mobile's existing and proposed communications facilities within the County (Attachment I).

K. When proposing a new communications tower, the applicant must demonstrate a radio frequency need for such a facility by showing:

- (1) That the applicant has researched co-location possibilities in the area, including in its research a review of the County's database of structures; and

The explanation as to why co-location is not feasible and a list of alternative sites considered is detailed under the "Alternative Sites Considered For This Proposal" section above.

- (2) That due to the absence of sufficiently tall structures in the search area, the absence of structural capacity on existing structures or other valid engineering or economic factors, no viable co-location opportunities exist in the search area.

The explanation as to why co-location is not feasible and a list of alternative sites considered is detailed under the "Alternative Sites Considered For This Proposal" section above.

ADDITIONAL SPECIAL EXCEPTION REQUIREMENTS, SECTION 267-53.6

- A. The placement of the communications tower at the proposed location will not have a material negative impact on the value, use or enjoyment of any adjoining parcel.

The placement of the communications facility at the proposed location will not have a material negative impact on the value, use or enjoyment of any adjoining parcel. The proposed facility will have no impact as to traffic, noise, light pollution, air quality, water quality, or radiation on the adjoining properties. There will be no harmful emissions or any electrical or blanketing interference from the equipment, transmission lines or antennas. The nine (9) proposed antennas will be attached internally within the proposed 120-foot silo. This site location and design will be consistent with the agricultural nature of the subject parcel and create a practical structure that will allow for co-location while minimizing its visual impact to adjacent property owners.

- B. The applicant has made a diligent attempt to locate the applicant's antenna on an existing tower or nonresidential building or structure.

The explanation as to why co-location is not feasible and a list of alternative sites considered is detailed under the "Alternative Sites Considered For This Proposal" section above.

- C. The applicant shall provide the following additional information in support of its application:

- (1) Photographs of existing site conditions;
- (2) Photographs demonstrating that a balloon test has been conducted, or other evidence depicting the visual impact of the proposed tower within a one mile radius of the proposed tower.
- (3) A map describing the topography of the site and the area within a one-mile radius of the proposed tower.

Please see the attached photo-simulations depicting the existing conditions of the site as well as the visual impact of the proposed silo and antenna installation. The photographs were taken within a one mile radius of the proposed facility (Attachment J). A map detailing the topography of the site and the area within a one mile radius of the proposed facility is also attached (Attachment K).

TABLE II: DESIGN REQUIREMENTS – AG DISTRICT, SEC. 267-34

Transportation, Communications and Utilities/Warehousing Uses in AG zones require a minimum lot area of 5 acres and minimum use setback from adjacent residential lot of 200-feet.

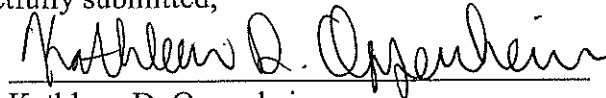
T-Mobile's proposed communications facility will be located on a subject property that is 73.3 acres and exceeds the minimum setback requirement of 200-feet to all adjacent residential lots (Sheet 2, Attachment A).

The applicant, T-Mobile, respectfully submits to the Zoning Administrator that the proposed facility is consistent with the Harford County Zoning Code, location and extent, and requests that the Zoning Administrator grant this application approval.

Please contact me at 203-240-5906 if you have any questions with reference to this submission.

Respectfully submitted,

By:



Kathleen D. Oppenheimer
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Consultant for T-Mobile
12050 Baltimore Avenue
Beltsville, MD 20705

